



Federal Communications Commission
Washington, D.C. 20554

DA 07-4694
November 21, 2007

Michael E. Carosella
QUALCOMM Incorporated
5775 Morehouse Drive
San Diego, CA 92121

Re: WPZA236, Reading, PA
ULS File No. 0003182301

Dear Mr. Carosella,

On September 25, 2007, you filed an FCC Form 601 application for modification of station WPZA236, seeking authorization to operate on TV Channel 55 in the Reading, PA area.¹ Your application incorporates broadcaster consent, pursuant to section 27.60(b)(1)(iv) of the Commission's rules.² This rule section permits a 700 MHz Band licensee to obtain the written concurrence of a co-channel or adjacent channel TV/DTV broadcaster, whereby the incumbent broadcaster consents to accept higher levels of interference than the rule otherwise permits, subject to Commission approval.³

Your application includes a copy of a consent agreement between QUALCOMM Incorporated ("QUALCOMM") and WGGB Licensee, LLC ("WGGB Licensee"), the licensee of WGGB-DT, channel 55, in Springfield, MA. In the agreement, WGGB Licensee has agreed to accept potential interference to the population in the noise limited service contour of WGGB-DT's licensed facilities (BLCDDT-20061204AHT). We note that this interference represents the total amount of interference that WGGB-DT will experience from QUALCOMM's proposed operations in the Reading, PA area, as well as other previously or concurrently authorized QUALCOMM facilities, and that WGGB Licensee's consent covers QUALCOMM's operations in all contributing markets.

¹ The Commission placed the application on public notice. *See* Wireless Bureau Market-Based Applications Accepted for Filing, *Public Notice*, Report No. 3483 at 4 (rel. Oct. 3, 2007). No petitions have been filed against the application.

² *See* 47 C.F.R. § 27.60(b)(1)(iv).

³ This approval process involves an analysis by the Media Bureau, under delegated authority, to determine whether grant of the application is in the public interest. *See* Service Rules for the 746-764 and 776-794 MHz Bands, and Revisions to Part 27 of the Commission's Rules, WT Docket No. 99-168, *Memorandum Opinion and Order and Further Notice of Proposed Rulemaking*, 15 FCC Rcd 20845 (2000) (basis for public interest analysis of Lower 700 MHz consent agreements); Reallocation and Service Rules for the 698-746 MHz Spectrum Band (Television Channels 52-59), GN Docket No. 01-74, *Report and Order*, 17 FCC Rcd 1022 (2002) (framework for public interest analysis of Lower 700 MHz "band-clearing" agreements) ("Lower 700 MHz Report and Order").

Your application also includes a copy of a consent agreement between QUALCOMM and NEXSTAR Broadcasting, Inc. (“NEXSTAR”), the licensee of WHAG-DT, channel 55, in Hagerstown, MD. In the agreement, NEXSTAR has agreed to accept potential interference to the population in the noise limited service contour of WHAG-DT’s construction permit facilities (BMPCDT-20021203ACX). We note that this interference represents the total amount of interference that WHAG-DT will experience from QUALCOMM’s proposed operations in the Reading, PA area, as well as other previously or concurrently authorized QUALCOMM facilities, and that NEXSTAR’s consent covers QUALCOMM’s operations in all contributing markets.

Your application includes a copy of a consent agreement between QUALCOMM and Commonwealth Public Broadcasting Corporation (“Commonwealth”), the licensee of WNVC(TV), channel *56, in Fairfax, VA. In the agreement, Commonwealth has agreed to accept potential interference to the population in the Grade B contour of WNVC(TV)’s licensed facilities (BLET-19830525KF). We note that this interference represents the total amount of interference that WNVC(TV) will experience from QUALCOMM’s proposed operations in the Reading, PA area, as well as other previously or concurrently authorized QUALCOMM facilities, and that Commonwealth’s consent covers QUALCOMM’s operations in all contributing markets.

Your application also includes a copy of a consent agreement between QUALCOMM and Baltimore (WNUV-TV) Licensee, LLC (“Baltimore Licensee”), the licensee of WNUV(TV), channel 54, Baltimore, MD. In the agreement, Baltimore Licensee has agreed to accept potential interference to the population in the Grade B contour of WNUV(TV)’s licensed facilities (BLCT-19890914KF). We note that this interference represents the total amount of interference that WNUV(TV) will experience from QUALCOMM’s proposed operations in the Reading, PA area, as well as other previously or concurrently authorized QUALCOMM facilities, and that Baltimore Licensee’s consent covers QUALCOMM’s operations in all contributing markets.

For the reasons discussed below, we find that grant of the application is in the public interest.⁴ First, our approval of the application will allow QUALCOMM to deploy its MediaFLO (“forward link only”) technology, a “mediacast” service capable of delivering many channels of multimedia content to third generation (“3G”) wireless phones. According to QUALCOMM, which holds licenses for Channel 55 (Block D in the Lower 700 MHz Band) covering the entire nation, MediaFLO initially will provide up to fifteen live streaming video program channels, numerous video “clip cast” channels from which subscribers can choose video clips for viewing on-demand, and numerous audio channels.⁵ QUALCOMM states that MediaFLO will be available at “mass market” prices for most of the nation’s over 194 million mobile phone customers, and that it will spur the development of new content and new technologies.⁶ QUALCOMM also intends that the network will carry local programming and core public interest program content such as breaking news, weather, and public affairs, as well as maintain network capability to disseminate emergency alert information, in both visual (including textual) and auditory form. QUALCOMM further states that its MediaFLO technology offers distinct efficiency and cost

⁴ With respect to any stations receiving interference for which consent is not provided, we note that QUALCOMM’s proposed operations are in accordance with the terms of the Commission’s Order granted October 13, 2006. *See* Qualcomm Incorporated Petition for Declaratory Ruling, *Order*, 21 FCC Rcd 11683 (2006).

⁵ QUALCOMM Attachment to application for modification of Station WPZA238, ULS File No. 0002395142 at 5.

⁶ *Id.*

advantages in delivering content to a large mobile subscriber base, as compared to cellular and higher-frequency based systems. Moreover, as QUALCOMM notes, MediaFLO will be affordable, readily available and will stimulate new development on a large scale within the emerging technology of mobile video.⁷ Given that QUALCOMM's business plan calls for an investment of \$800 million, grant of this application will contribute to the growth of the American economy.⁸

Second, WGGB Licensee has agreed to accept interference to 2.35% of the population within the noise limited service contour of WGGB-DT. The station is not the sole station licensed to Springfield, MA, and while WGGB-DT is an ABC affiliate, almost all of the agreed-upon interference is outside of the station's home DMA. Only 63 people in the DMA live in the area of agreed-upon interference and the entire area of interference is served by at least one other ABC affiliate. In addition, the area of agreed-upon interference is served by at least 9 and as many as 36 other TV/DTV stations.

While the application proposes an increase in the interference already approved to WHAG-DT, from 34.7% to 35.34% of the population within its protected contour, we find that the same factors relied upon in the prior grant letters involving this station justify a grant of the latest application.⁹ As the Divisions previously noted, WHAG(TV) is not one of the "top four" stations in its market, nor is it the sole station licensed to Hagerstown. In addition, all of the affected area will continue to be well served by at least four and as many as 43 analog and digital television stations, and 99.98% of the population in the area of agreed-upon interference will receive five or more services. While WHAG(TV) is an NBC affiliate, only 1,032 people who live within the Washington, D.C. DMA will not be able to receive an NBC DTV service after MediaFLO service is expanded pursuant to grant of this application. This will be the case, however, only until the DTV transition ends on February 17, 2009, or earlier, when NEXSTAR commences operations on its assigned in-core DTV channel for post-transition use.

The application also proposes an increase in the interference already approved to WNUV(TV), from 6.82% to 6.83% of the population within its protected contour. We also find that the factors relied upon in the previous grant letters involving this station justify a grant here.¹⁰ WNUV(TV), a CW affiliate, it is not the sole station licensed to Baltimore and is not one of the "top four" stations in its market. WNUV-DT covers the entire area of agreed-upon interference so that no viewers will lose access to the local programming aired on Baltimore Licensee's station, and a total of seven other CW affiliates provide analog service to portions of the loss area. In addition, almost the entire area of agreed-upon service lies outside the Baltimore DMA, and this area is served by at least 22 other TV or DTV stations.

With respect to WNVC(TV), the Commission already has determined that the public interest would be served by approving QUALCOMM's application to expand its MediaFLO service to the Washington, D.C.-Baltimore, MD area, which also included the station's consent to accept higher levels of interference to WNVC(TV). In this case, the area of interference in the Reading area and the Washington, D.C. – Baltimore, MD area are the same.

⁷ QUALCOMM Attachment at 5, 6.

⁸ QUALCOMM Attachment at 6.

⁹ See *Michael E. Carosella*, 22 FCC Rcd 16214 (2007).

¹⁰ See *Michael E. Carosella*, 22 FCC Rcd 2352, 2353 (2007).

Michael E. Carosella
November 21, 2007
DA 07-4694

Accordingly, we believe that the public interest will be served by a grant of QUALCOMM's application, conditioned upon operating within the technical parameters specified in the application, and in accordance with the WGGB Licensee, NEXSTAR, Commonwealth, and Baltimore Licensee Agreements. Any changes to the technical parameters of the proposed facilities that will result in levels of interference greater than those agreed to in the preceding agreements referenced herein, or that result in any additional interference under the thresholds established in the Commission's Qualcomm Order, will require separate Commission approval.

Sincerely,

Barbara A. Kreisman, Chief
Video Division
Media Bureau

Roger S. Noel, Chief
Mobility Division
Wireless Telecommunications Bureau